

## CENTER ON RACE, POVERTY & THE ENVIRONMENT

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September 22, 2006

Bobbie Garcia  
California Integrated Waste Management Board  
P.O. Box 4025 MS-10A  
Sacramento, CA 95812-4025

### Re: Proposed Regulations Implementing AB 1497

Dear Ms. Garcia:

The Center on Race, Poverty & the Environment (CRPE) submits these comments on California Integrated Waste Management Board's (CIWMB) most recent amendments to the proposed regulations implementing AB 1497. CRPE is a non-profit environmental justice organization which represents clients in California's San Joaquin Valley, including those living in communities hosting solid waste facilities. CRPE continues to urge CIWMB to implement the environmental justice principles mandated in AB 1497 to the fullest extent possible.

CIWMB's most recent changes to the proposed regulations further erode the public hearing and notice requirements in AB 1497. CRPE reiterates its previous comments and raises three additional comments regarding the public hearing provisions of the proposed changes. First, the post-approval notice requirement for RFI amendments fails to meet the public hearing mandates of AB 1497. Secondly, the regulations fail to list objective criteria CIWMB will use to classify an application as a modified permit. Finally, the regulations should clarify that informational meetings must occur prior to the proposed permit's submission to the Board.

**1. The RFI Amendment Regulations Fail to Meet the Public Hearing Requirements of AB 1497**

AB 1497 requires that "before making its determination . . . the enforcement agency shall submit the proposed determination to the board for comment and hold at least one public hearing on the proposed determination." However, under the proposed changes, CIWMB allows the EA to make a final determination on RFI amendments without providing for any public hearing or even notice of the proposed change. The only notice required will occur after the EA has already approved the RFI amendment. Notice given after the fact serves little purpose in facilitating public comment or community influence on the proposed changes. Because the EA has considerable discretion in determining whether or not an application will be classified as a RFI amendment, it is difficult to foresee the types of projects that will escape pre-determination notice.

**2. The Regulations Do Not Include Objective Criteria the CIWMB Will Use to Classify an Application as a Modified Permit**

The proposed regulations provide different public hearing procedures for modified and revised permits. Only revised permits are subject to an informational meeting. For this reason, the classification of an application will affect a community's ability to comment on and review proposed changes. To ensure that changes that may affect the public are subject to an informational meeting, the criteria CIWMB uses to classify an application as a modified permit or revised permit should be clearly defined. The criteria in the proposed regulations for classifying a modified permit are vague, and, therefore, leave a great deal of discretion to the EA. To protect the public's right to be informed and involved in waste facility permitting changes, the regulations should be clear and specific on the criteria CIWMB will use to classify an application as a modified permit.


**3. The Regulations Fail To Make It Clear that Informational Meetings for Revised or New Permits Must Occur Prior to Submission of the Application to the Board**

For revised and new permits, the EA is obligated to hold an informational meeting within 60 days of receipt of the application by the EA. Also within 60 days, the EA must submit the application to the Board. These two provisions could be read jointly so that the EA could first submit the application to the Board and then subsequently hold an informational meeting, all within the 60-day time period. The regulations should clarify that any informational meetings must take place prior to an application's submission to the Board.

**Conclusion**

For the reasons stated above, the proposed regulations would be strengthened by requiring notice prior to all determinations, defining application classifications with specificity, and ensuring that hearings occur prior to the submission of the application to the Board. Please provide me with notice of CIWMB's final rule implementing AB 1497. Thank you for the opportunity to comment.

Sincerely,

  
Ingrid Brostrom  
Equal Justice Works Fellow